

REMARKS

These remarks are set forth in response to the Non-Final Office Action. As this amendment has been timely filed within the three-month statutory period, neither an extension of time nor a fee is required. At the time of the Non-Final Office Action, Claims 1 through 18 were pending and rejected and objected to in this application. Claims 1, 6, 9 and 14 are independent in nature. In response, Claims 1-3, 5, 8-12 and 14-17 have been amended to correct informalities. Also, independent Claims 1 and 6 have been amended to include the limitations of previously presented Claims 2 and 7 respectively, and consequently, Claims 2 and 7 have been canceled. Otherwise, Applicants respectfully traverse the rejections on the art.

CLAIMS 1-3, 5, 8-12 AND 14-17 ARE OBJECTED TO FOR INFORMALITIES

On pages 2 and 3 of the Non-Final Office Action, the Examiner objected to Claims 1-3, 5, 8-12 and 14-17 for informalities. Although the claims were in a proper format with proper antecedent basis, the Applicants have amended the Claims as the Examiner suggested to overcome the objections. Applicants note that the amendments are NOT related to the patentability of the claims but are solely directed to informalities in naming convention.

CLAIMS 10-18 AND 25-28 ARE REJECTED UNDER 35 U.S.C. § 101

On page 3 of the Non-Final Office Action, the Examiner asserted that the claimed invention, as recited in claims 10-18 and 25-28, is directed to non-statutory subject matter. This rejection is respectfully traversed.

Claims 14-18 specifically recite "a computer readable storage." A computer usable/readable storage is an article of manufacture and, thus, is statutory. In this regard, the Examiner is directed to M.P.E.P. § 2106.01, which states:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Furthermore, one skilled in the art would recognize that machine-readable storage includes memory, hard drives, floppy drives, USB keys, etc. Moreover, a quick search of the U.S.P.T.O patent database reveals that there are tens of hundreds of issued patent that have claims with the term "computer readable storage".

Therefore, Applicants respectfully solicit withdrawal of the imposed rejection of claims 14-18 under 35 U.S.C. § 101 as not being viable.

CLAIMS 1-7, 9-12, AND 14-17 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY HARRISION ET AL., "THE DESIGN AND PERFORMANCE OF A REAL-TIME CORBA EVENT SERVICE" (HEREINAFTER HARRISON)

On pages 4-7 of the Non-Final Office Action, the Examiner asserted that Harrison discloses the invention corresponding to that claimed in Claims 1-7, 9-12 and 14-17. This rejection is respectfully traversed.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference¹. Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

and that such existence would be recognized by one having ordinary skill in the art². As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not been met.

Claims 1 and 6

At the outset, Applicants note that Claims 1 and 6 have been amended to include the limitations previously presented in Claims 2 and 7, respectively. Thus, Claim 1, in part, recites the following:

An event notification and management system comprising:
an aggregation of logical components, each logical component having a coupling to a corresponding dynamic proxy;
an event notification service communicatively linked to a plurality of subscribing processes; and, an event queue disposed between said dynamic proxy and said event notification service;
wherein at least one of said dynamic proxy comprises event notification logic and event management logic.

On page 4 of the First Office Action, the Examiner relied upon page 189, right col., lines 13-20 to teach these limitations. The passage is reproduced here for convenience.

Figure 7 shows the types of data exchanged and the inter-object collaborations involved when a consumer invokes the ProxyPushSupplier: :connect_push_consumer interface. Suppliers use the ProxyPushSupplier interface to connect and disconnect from the channel.”

As claimed, the dynamic proxy comprises event notification logic and event management logic. The cited passage of Harrison at page 189, right col., lines 13-20 and Figure 7 both fail to teach or suggest an event notification and management system having a dynamic proxy that

² See *In re Spada*, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ *Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984)

comprises event notification logic and event management logic. To the extent that the “consumer proxies” and/or the “supplier proxies” are considered to be a “dynamic proxy”, the cited passage does not disclose either the consumer or supplier proxies of Harrison having both event notification logic and event management logic. Thus, for the above-described reasons, the Examiner has failed to establish that Harrison identically discloses the claimed invention, as recited in independent Claims 1 and 6, with the meaning of 35 U.S.C. § 102. Applicants, therefore, respectfully submit that the imposed rejection of Claims 1-7, 9-12 and 14-17 under 35 U.S.C. § 102 for anticipation based on Harrison is not factually viable and, hence, solicit withdrawal thereof.

CLAIMS 8, 13 AND 18 ARE REJECTED UNDER 35 U.S.C. § 103 AS BEING UNPATENTABLE OVER HARRISION IN VIEW OF U.S. PATENT 6,877163 TO JONES, ET AL. (HEREINAFTER JONES)

Futhermore, the teachings of U.S. Patent No. 6,877,163 to Jones, et al., (hereinafter Jones) cannot overcome the deficiencies of Harrison, with respect to amended Claims 1 and 6, and therefore Applicants respectfully request that the imposed rejection of Claims 8, 13 and 18 under 35 U.S.C. § 103 for obviousness based on Harrison in view of Jones in not viable and, hence solicit withdrawal thereof.

For these reasons, the Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. §§ 102(b) and 103(a). This entire application is now believed to be in condition for allowance and such action is respectfully requested. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or

Application No. 10/734,966
Filed: 12/15/2003
Attorney Docket No.: LOT9-2003-0078US1 (7321-032U)

if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: October 30, 2007

/Steven M. Greenberg/

Steven M. Greenberg
Reg. No.: 44,725
Customer Number 46321
Attorney for Applicant(s)
Carey, Rodriguez, Greenberg & Paul, LLP
950 Peninsula Corporate Circle, Suite 3020
Boca Raton, FL 33487
Tel: (561) 922-3845
Fax: (561) 244-1062